

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

CGS INDUSTRIES, INC., a Florida corporation,

Plaintiff,

vs.

THE CHARTER OAK FIRE INSURANCE  
COMPANY, a Connecticut corporation,

Defendant.

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) CASE NO.: CV-10-3186 JBW (JO)  
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) Hon. Jack B. Weinstein  
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)

) **DECLARATION OF BRUCE A.  
) MCDONALD IN SUPPORT OF  
) PLAINTIFF'S MOTION FOR  
) SUMMARY JUDGMENT AS TO  
) LIABILITY ON DEFENDANT'S  
) DUTY TO DEFEND**  
)  
)  
)  
)

I, BRUCE A. MCDONALD, declare:

1. I am an attorney with Buchanan Ingersoll & Rooney PC (“BIR”) and am one of the attorneys for defendant CGS Industries, Inc. (“CGSI”) in the *Five Four Clothing, Inc., et al. v. CGS Industries, Inc. et al.*, Case No. CV 09-9431 GW (CWx), United States District Court for the Central District of California action (the “*Five Four* action”). In that capacity I am a custodian of BIR’s records, including correspondence sent and received on behalf of clients like CGSI.
2. I know the facts set forth in this declaration to be true and correct based on my personal knowledge thereof and, if called to testify, I could and would testify competently thereto.
3. On February 26, 2010 and in response to Charter Oak Fire Ins. Co.’s (“Charter Oak”) denial of a defense of the *Five Four* action, I informed Charter Oak by letter that BIR was representing CGSI and requested that Charter Oak reconsider its denial. A copy of the letter is attached as **Exhibit “6.”**
4. By letter dated March 15, 2010 Charter Oak acknowledged receipt of CGSI’s request for reconsideration and indicated that it would respond shortly. A copy of Charter Oak’s letter is attached as **Exhibit “7.”**
5. Before receiving a response from Charter Oak, I notified it of the Second Amended Complaint (“SAC”) filed in the *Five Four* action by letter dated April 13, 2010. A copy of my letter is attached as **Exhibit “8.”**
6. On April 16, 2010 Charter Oak acknowledged, by letter, receipt of the SAC and indicated that it was forwarded to the home office for review by the legal department. A copy of the acknowledgement letter is attached as **Exhibit “9.”**
7. By letter dated April 24, 2010, Charter Oak again denied coverage of the *Five Four* action. A copy of Charter Oak’s second denial is attached as **Exhibit “10.”**

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed at Alexandria, Virginia on this 28th day of July, 2010.

*Bruce A. McDonald*

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BRUCE A. MCDONALD

**CERTIFICATE OF SERVICE**

I hereby certify that on August 9, 2010, the foregoing document was filed with the Clerk of the Court and served in accordance with the Federal Rules of Civil Procedure, and/or the Eastern District's Local Rules, and/or the Eastern District's Rules on Electronic Service upon the following parties and participants:

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